IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12265 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NIKETANBHAI CHHOTABHAI PATEL
Versus
STATE OF GUJARAT THRO.SECRETARY AND OTHERS

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Appearance :
MR NILESH A PANDYA for the Petitioner
MR JK SHAH, ASSISTANT GOVERNMENT PLEADER for Respondent Nos.1 to 3
MR NIKHIL S KARIEL for Respondent No.4

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 28/09/2007

ORAL JUDGMENT

1. The matter is on board for confirmation of relief.

There is a Civil Application filed being 12455 of 2007 filed by the

original petitioner praying that, one Mr.Dilipbhai Kantibhai Patel be impleaded as party respondent No.5 in the Special Civil Application and an injunction be granted restraining respondent Nos.4 and 5 from transferring the land in question to any third party till the final disposal of the main petition.

2. Mr.Karial, learned advocate for respondent No.4 in Special Civil Application, invited attention of the Court to the fact that the petition was filed on 12.02.2007. The same was not moved for admission hearing. It was only in the month of July 2007 that the matter came up on admission board in regular course (as stated by Mr.Pandya, learned advocate for the petitioner).

On 05.07.2007, this Court passed the following order:

> "Heard learned advocate Mr. Pandya. Mr. Pandya invited attention of this Court to the averments made with regard to the citizenship of respondent No.4. He also invited attention of this Court to the fact which is recorded by the Deputy Collector in his order dated 06.08.2002 that respondent No.4 is not able to produce any documentary evidence to show that he is a citizen of India.
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> RULE. Notice as to interim relief returnable on 08.08.2007. Ad-interim relief in terms of Para 11(C)."

3. Mr.Karial, learned advocate, invited attention of the Court to the affidavit-in-reply filed by respondent No.4, wherein it is stated that respondent No.4 had sold the land to Shri Dilipbhai Kantilal

Patel, who is now sought to be impleaded as respondent No.5, in the month of May 2007, to be precise, on 01.05.2007. It is further stated in the affidavit-in-reply that thereafter, a compromise was arrived at between the petitioner and respondent No.4 on 15.06.2007.

The aforesaid facts are conveniently not stated in the petition. That situation is explained by saying that the question of stating these facts in the petition does not arise because the petition was filed in the month of February 2007. Still the question remains as to whether the petitioner was under an obligation to state these facts before this Court on 05.07.2007 when he obtained an order from this Court and the answer is emphatically in, 'affirmative'.

4. Mr.Pandya, learned advocate for the petitioner, is not able to explain as to why **the petitioner did not inform the learned advocate appearing for the petitioner so as to enable the learned advocate to inform this Court about the said development**. Learned advocate Mr.Pandya tried to defend the petitioner by saying that he has stated all this in the affidavit in rejoinder and it is also stated that the 'compromise' referred to did not work out. This does not absolve the petitioner of the misdeed which is in the nature of 'criminal contempt', more so because all this is stated in response to affidavit-in-reply in rejoinder.

5. Without attributing anything to the learned advocate for the petitioner, the Court cannot allow the party to behave in this manner

before the Court. In fact, it is a fit case for taking appropriate action under the provisions of the Contempt of Court Act for criminal contempt, but the Court restrains itself; recalls order dated 05.07.2007 and dismisses the petition with cost of Rs.15,000/- (Rupees Fifteen Thousand Only).

Deposit of cost of Rs.15,000/- (Rupees Fifteen Thousand Only) shall operate as condition precedent for taking any further proceedings in the matter.

6. The petition is dismissed as aforesaid. Rule is discharged. No costs. Ad interim relief granted earlier is vacated.

(RAVI R.TRIPATHI, J.)

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